

MELINDA HAAG (CABN 132612)  
United States Attorney

J. DOUGLAS WILSON (DCBN 412811)  
Chief, Criminal Division

KIRSTIN M. AULT (CABN 206052)  
KYLE F. WALDINGER (ILBN 6238304)  
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-6940  
FAX: (415) 436-7234  
Kirstin.ault@usdoj.gov  
Kyle.waldinger@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

|                                 |   |                            |
|---------------------------------|---|----------------------------|
| UNITED STATES OF AMERICA        | ) | CR No. 14-380 CRB          |
|                                 | ) |                            |
| Plaintiff,                      | ) | STIPULATION AND [PROPOSED] |
|                                 | ) | PROTECTIVE ORDER           |
| v.                              | ) |                            |
|                                 | ) |                            |
| FEDEX CORPORATION,              | ) |                            |
| FEDEX EXPRESS, INC.,            | ) |                            |
| FEDEX CORPORATE SERVICES, INC., | ) |                            |
|                                 | ) |                            |
| <u>Defendants</u>               | ) |                            |

The United States of America, by and through MELINDA HAAG, United States Attorney for the Northern District of California, and KIRSTIN M. AULT and KYLE F. WALDINGER, Assistant United States Attorneys for the Northern District of California, and the defendants, FEDEX CORPORATION, FEDEX EXPRESS, INC., and FEDEX CORPORATE SERVICES, INC. (collectively "FEDEX"), and their attorney CRIS ARGUEDAS, hereby stipulate and agree as follows:

WHEREAS FEDEX is charged in an 15-count Indictment with violations of Title 21, United States Code, sections 331, 333, 353, 841 and 846, and Title 18, United States Code, Section 371. In connection with this Indictment, the United States intends to produce as discovery documents and

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1 materials that contain personal and private information of persons not charged in the Indictment. Such  
 2 materials include the following categories of materials, among others: (1) records of financial accounts  
 3 and transactions conducted by the defendants, their unindicted co-conspirators, and others not charged in  
 4 the indictment; (2) credit card information for customers of the defendants and of their unindicted co-  
 5 conspirators; (3) medical information regarding customers of the unindicted co-conspirators; and (4)  
 6 personal information of customers of the defendants and of the unindicted co-conspirators, such as dates  
 7 of birth, addresses, social security numbers, passport numbers, driver's license numbers, and financial  
 8 account information. Because of the volume of material, it is not practical to redact the private financial,  
 9 medical and personal information prior to production. Moreover, because the private information is  
 10 often important to understanding the meaning and importance of the documents, redacting this  
 11 information would, in many cases, render the documents meaningless and unhelpful to the preparation  
 12 of a defense. Therefore, to protect the privacy of the defendants, their associates, and the persons who  
 13 were customers of the unindicted co-conspirators, the United States respectfully requests that a  
 14 protective order be issued directing that the following actions be taken to prevent the public disclosure  
 15 of private personal, financial and medical information.

16 1. The following individuals (the "defense team") may obtain and examine the materials  
 17 produced in discovery related to the personal identifying and private financial and medical information  
 18 of the defendants and third parties under the conditions set forth herein for the sole purpose of preparing  
 19 the defense of FEDEX and for no other purpose:

- 20 a. Counsel for FEDEX;
- 21 b. Persons employed by defense counsel to assist in the preparation of the defense;
- 22 c. FEDEX and its employees, but only to assist in the preparation of the defense;
- 23 d. Third-party fact witnesses, but only in the presence of defense counsel or another  
 24 authorized person listed in this paragraph;
- 25 e. Any expert retained on behalf of FEDEX to assist in the defense of this matter;
- 26 f. Any investigator retained on behalf of FEDEX to assist in the defense of this  
 27 matter.

1 If defense counsel determine that additional persons are needed to review the material, they must  
2 obtain a further order of the Court before allowing any other individual to review the material.

3 2. Except when being actively examined for the purpose of the preparation of the defense in  
4 this matter, the documents and materials containing personal identifying information, private financial  
5 information, and private medical information of the defendants or third parties produced by the United  
6 States to defense counsel ("private documents") shall be maintained in a manner such that they are  
7 accessible only to the defense team. The defense team shall not permit any person access of any kind to  
8 the private documents or disclose in any manner the personal identifying and private financial and  
9 medical information of the defendants or of third parties except as set forth below.

10 3. Examination of the documents shall be done in a secure environment which will not  
11 expose the materials to other individuals not listed above.

12 4. Documents such as word processing files, e-mails, and other text or data files may be  
13 duplicated to the extent necessary to prepare the defense of this matter.

14 5. A copy of this order shall be maintained with the private documents at all times.

15 6. Any pleadings that reveal the personal identifying or private financial or medical  
16 information of the defendants or third parties, either by attaching copies of documents containing that  
17 information or referencing that information, shall be redacted to prevent the disclosure of such  
18 information or filed under seal.

19 7. Within five court days of the judgment and sentencing hearing in this matter, or dismissal  
20 of the charges, all private documents provided to the defense team pursuant to this Order, and all other  
21 authorized copies, if any, shall be returned to the United States. The United States shall destroy them.  
22 If any defendant believes that he or she must maintain the material for any reason related to appeal, the  
23 defendant must seek authorization from the Court within ten days of the filing of a judgment in this  
24 matter.

25 8. Prior to receiving access to the materials, each defense team member shall sign a copy of  
26 a Certification that shall be filed with the Court acknowledging that:

27 a. She or he has reviewed the Order;

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- b. She or he understands the contents;
- c. She or he will only access and use the materials provided in discovery for the purposes of preparing a defense in this matter;
- d. She or he will not disseminate the materials provided in discovery to any person not on the defense team and to any person who has not signed the Certification attached to this Order;
- e. She or he understands that failure to abide by this Order may result in sanctions by this Court and she or he submits to the jurisdiction of the Court for purpose of enforcing this Order and imposing any sanctions for its violation.

9. Counsel for FEDEX shall promptly file signed copies of the Certification, *ex parte* and under seal. The United States shall have no access to these signed copies without further order of the Court.

10. Any disputes concerning this Stipulation and Protective Order shall be resolved by this Court only after counsel for the United States and FEDEX have first conferred and attempted to resolve the dispute.


SO STIPULATED:

MELINDA HAAG  
United States Attorney

DATED: July 23, 2014

  
KIRSTIN M. AULT  
Assistant United States Attorney

DATED: July 22, 2009 2014

  
CRIS ARGUEDAS  
Attorney for FEDEX CORPORATION,  
FEDEX EXPRESS, INC., and FEDEX  
CORPORATE SERVICES, INC.

SO ORDERED.

DATED: \_\_\_\_\_

HONORABLE CHARLES R. BREYER  
United States District Court Judge

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